



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,731	11/11/2003	Michael Collier	005127.00307	5000
22910	7590	10/29/2007	EXAMINER	
BANNER & WITCOFF, LTD. 28 STATE STREET 28th FLOOR BOSTON, MA 02109-9601			LARSON, JUSTIN MATTHEW	
		ART UNIT	PAPER NUMBER	
		3782		
		MAIL DATE	DELIVERY MODE	
		10/29/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/705,731	COLLIER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Justin M. Larson	3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 September 2007.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4, 6, 9, 11-15, 17, 18, 22, 23, 25, 27 and 28 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-4, 6, 9, 11-15, 17, 18, 22 and 23 is/are allowed.
- 6) Claim(s) 25, 27 and 28 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 25 and 27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Amended claim 25 now recites that the gaps are free of material used to form the transverse chambers. Examiner understands Applicant's intent for this limitation, that is, to define that the gaps are in fact apertures or areas where no material exists, however, nowhere in the originally filed disclosure are the gaps said to be free of material used to form the transverse chambers. The gaps themselves are formed within the material used to form the transverse chambers and are therefore not free of that material. In other words, the material in which the perimeters of the gaps are defined is the material used to form the transverse chambers and the gaps are therefore not free of the material used to form the transverse chambers. Examiner feels that Applicant has best defined these so called "gaps" as "apertures" in the allowable claims. The term "aperture" clearly defines the properties of a gap that Applicant is trying to define in claim 25.

***Claim Rejections - 35 USC § 102***

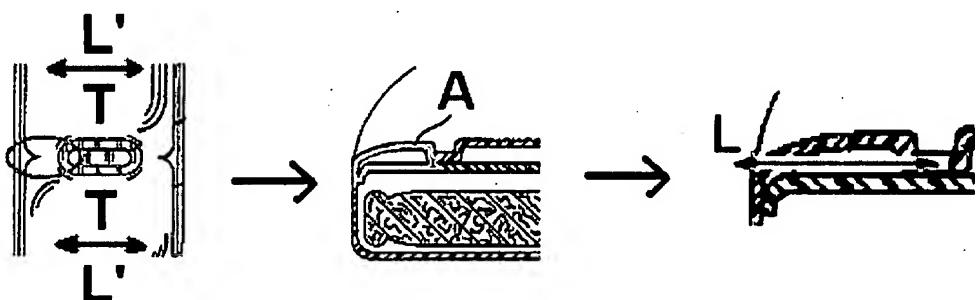
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 28 is rejected under 35 U.S.C. 102(b) as being anticipated by Pritchard et al. (US 3,883,053 A).

Pritchard discloses a bladder (10) for use with a strap (12) to carry a load comprising, in combination a first longitudinal chamber (chamber 42 running the length of the bladder), a second longitudinal chamber (other 42) spaced apart from the first longitudinal chamber, a plurality of transverse chambers (22), each transverse chamber being connected at a first end thereof to the first longitudinal chamber and at a second end thereof to the second longitudinal chamber, and in fluid communication with the first and second longitudinal chambers, and a plurality of elongate transverse apertures (A, figure below), each transverse aperture disposed between adjacent transverse chambers and having a longitudinal axis (L) extending substantially parallel to a longitudinal axis of each of the transverse chambers.



The leftmost figure above shows the circled location of what examiner is considering an aperture. This aperture (A) is disposed between adjacent transverse chambers (T). As seen in the rightmost figure above, each aperture has a longitudinal axis (L) that is parallel to a longitudinal axis (L') of the transverse chambers.

***Allowable Subject Matter***

5. Claims 1-4, 6, 9, 11-15, 17, 18, 22, and 23 are allowed.
6. It is noted that claims 25 and 27 are rejected only under 35 U.S.C. 112, first paragraph, and not with art.

***Response to Arguments***

7. Applicant's arguments with respect to Sebastian have been fully considered and are found persuasive. The so called "gaps" in Sebastian, as cited by Examiner in the previous office action, are not "free of material".
8. Applicant's arguments with respect to Pritchard et al. have been fully considered and are not found persuasive. As set forth more clearly in paragraph 4 above, Pritchard et al. discloses all of the subject matter of claim 28. Examiner maintains the position that apertures (A) in Pritchard et al. are equivalent to Applicant's apertures as claimed.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 3782

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Thursday, 7am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

Application/Control Number: 10/705,731  
Art Unit: 3782

Page 6

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML  
10/17/07

*nathan j. newhouse*  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER